

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 70346

Calvin Boone
CEB Construction Services, Inc.
506 Acorn Court
Mt. Airy, MD 21771

1918 Tadcaster Road

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on January 6, 2010 for a Hearing on a citation for violations under the International Residential Code (IRC) 2003 section R.406.1.2, failure to repair cracked foundation to provide a waterproof/dampproof condition; (IRC) 2003 section R312, failure to provide/install guard detail at archway minimum 36" in height; (IRC) 2003 section R109.1.6, failure to call for final inspection on residential property known as 1918 Tadcaster Road.

On November 23, 2009, pursuant to Baltimore County Code §3-6-205, Inspector James Garland issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$ 12,800.00 (twelve thousand eight hundred dollars).

The following persons appeared for the Hearing and testified: Calvin Boone, Respondent, and Jody Boone; Michael Spinnato, property owner and, James Garland, Baltimore County Building Inspections Inspector.

After proper consideration of all the evidence and testimony presented, the Hearing Officer finds:

A. A Correction Notice was issued on November 3, 2009 for repair of foundation to provide waterproof/dampproof condition; for providing guardrail at areaway minimum 36 inches high; and for failure to call for final (completion) inspection. This Citation was issued on November 23, 2009.

B. Baltimore County Building Inspector James Garland testified that Respondent is a licensed contractor who constructed an addition on this property in 2005 and 2006. He testified that after receiving a complaint from Mr. Spinnato, the property owner, his inspection found that there is a crack in the rear of the foundation of the addition and that water is flowing in through the crack. Photographs in the file show a crack in the concrete foundation.

C. Review of the department's building permit records shows that the Building Permit was issued on September 21, 2005 to B Square, a contractor operated by Respondent Calvin Boone's brother. The footing inspection was passed on September 26, 2005. The foundation inspection was passed on October 7, 2005. The framing inspection was passed on February 17, 2006. The installation inspection was passed on February 24, 2006. The completion inspection was disapproved on June 7, 2006, and the contractor never obtained a completion inspection and did not close the building permit. Inspector Garland testified that the property could not pass final inspection because there was no railing on the rear steps.

D. Respondent Calvin Boone testified that he agrees that he did not obtain the required final inspection and that he agrees he is responsible for installing the railing on the rear steps, which is required by the building code. He further testified that in 2006 he called for a final inspection and was told that he failed the inspection because there was no railing on the front steps; he stated that he was not responsible for that railing because another contractor had done the work on the front steps. He further testified that he does not agree that he has a responsibility for the crack in the foundation. He stated that during the period since 2006, a different contractor worked on the deck and changed the grade causing water to be diverted toward the foundation. He further testified that he sent a letter to the County in November and did not receive a response. He further testified that the County closed out his building permit and did not contact him.

E. Mike Spinnato owns this property. He testified that he contacted Respondent about the water problem in the basement in spring 2009. The deck was constructed in October 2006 by a different contractor. He testified that he wants Respondent to repair the crack in the foundation of the addition.

F. A Baltimore County building permit is required before a person may erect, construct, repair, alter, remodel, remove, or demolish a building or structure. BCC Section 35-2-301. Contractors working under a permit are required to pass all required inspections to complete the work authorized by the permit. Baltimore County Building Code Section 109.2 (Required Inspections). Here, Respondent called for the final inspection but failed the inspection, and did not take action to resolve the issues and did not obtain a final inspection. Respondent was not responsible for the missing front railing but was required by the building code to install a protective railing on the rear steps of the new addition. Despite the passage of time and the expiration of the building permit, the County can require Respondent to complete the construction project and to pass the required final inspection.

G. The foundation inspection was passed on October 7, 2005. The evidence indicates that the crack in the foundation occurred some time after Respondent completed work on this project in 2006. The extent of Respondent's responsibility for repairing this crack is dependent on the contract between Respondent and the property owner, and is not within the scope of this code enforcement proceeding.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$1,000.00 (one thousand dollars).

IT IS FURTHER ORDERED that the civil penalty will be REDUCED to \$200.00 (two hundred dollars) if the violation is corrected by April 14, 2010, with all required inspections satisfactorily completed to close Respondent's building permit.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty as authorized above shall be imposed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 1st day of March 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.